



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 5, 1996

Mr. Dennis J. Eichelbaum  
Schwartz & Eichelbaum, P.C.  
3700 Ross Avenue, Box 69  
Dallas, Texas 75204-5491

OR96-1596

Dear Mr. Eichelbaum:

On behalf of the Dallas Independent School District (the "school district"), which you represent, you ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. You assert that the requested information is excepted from required public disclosure under section 552.107 of the Government Code. You also assert that the request is "unduly vague and overbroad." Your request was assigned ID# 101050.

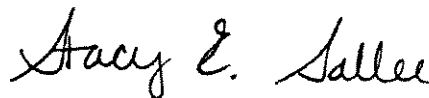
Chapter 552 of the Government Code imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. *See* Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. *See, e.g.*, Open Records Decision No. 150 (1977) (presumption of openness overcome by showing that information is made confidential by another source of law or affects third party interests).

Additionally, section 552.301 of the Government Code provides that a governmental body seeking a ruling from our office must submit to our office copies of the information that it seeks to withhold from required public disclosure. Gov't Code § 552.301(b)(3). On July 30, 1996, we asked you for copies of the information at issue. To date, we have not received the requested copies.

Chapter 552 of the Government Code places on the custodian of public records the burden of establishing that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). Your request for an open records decision remains incomplete. Without the information requested from you, this office is unable to evaluate the exception you raised. Consequently, we find that you have not met your burden under chapter 552 and that the information is presumed to be public. Open Records Decision No. 195 (1978).

In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, you must release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (distribution of confidential information is criminal offense). We note that this office has previously held that a demonstration of the applicability of section 552.107(1) does not constitute a compelling reason to overcome a presumption of openness. *See* Open Records Decision Nos. 630 (1994).<sup>1</sup> If you have any questions regarding this matter, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 101050

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<sup>1</sup>With regard to your contention that the request is vague and overly broad, numerous opinions of this office have addressed this situation. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

In response to the request at issue here, the school district must make a good-faith effort to relate the request to information in the school district's possession and must help the requestor to clarify his request by advising him of the types of information available. We note that if a request for information is unclear, a governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b); *see also* Open Records Decision No. 561 (1990) at 8. A request for records made pursuant to chapter 552 may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975).

cc: Mr. Philip G. Thomas  
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Dallas, Texas 75230